

REMARKS/ARGUMENTS

The Office Action mailed June 17, 2004 has been reviewed and carefully considered. Claims 3, 7-10, 12-13, 19, 21, 24, 26-39, 59, and 79 are canceled. Claims 66-67 have been amended. Claims 1, 2, 4-6, 11, 14-18, 20, 22-23, 25, and 40-58 and 60-78 are pending in this application, with claims 1, 14, 20, 23, 40, 63, 64, 69, 72, and 73 being the only independent claims. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

The Examiner and Applicant's undersigned representative conducted a telephonic interview on September 22, 2005 and discussed the rejections of independent claims 1 and 40. The subject matter discussed is incorporated in the remarks below.

In the Office Action mailed June 22, 2005, claims 66 and 67 were objected to as being dependent on canceled claim 10. These claims have been amended to be being dependent on independent claim 1, as suggested by the Examiner. Accordingly, the objection to claims 66 and 67 should be withdrawn.

Claims 1, 2, 4, 5, 14-16, 41-53, 62, 65, 68-71, and 76-78 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 6,192,340 (Abecassis) and Musicbox Jukebox software, in view of U.S. Patent No. 6,470,378 (Tracton) and U.S. Patent No. 6,167,251 (Segal) and further in view of U.S. Patent No. 6,356,971 (Katz).

Claims 6, 11, 17-18, 66, 67, 74, and 75 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis, Musicbox Jukebox software, in view of Tracton and Segal, and further in view of U.S. Patent No. 6,199,076 (Logan).

Claims 20, 22, 23, 25, 36, 40, 54-58, 61, and 79 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis, Musicbox Jukebox software, in view of Tracton and Segal, and further in view of U.S. Patent No. 6,188,398 (Collins-Rector).

Claims 26-35, 39, and 59-60 stand rejected under 35 U.S.C. §103 as unpatentable over Logan in view of Abecassis and Musicbox Jukebox software in further view of Segal and Tracton.

Claims 64 and 73 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis and Musicbox Jukebox software in view of Tracton and Segal and further in view of U.S. Patent No. 6,650,902 (Richton).

Claims 63 and 72 are allowed.

Independent claim 1 recites "downloading and storing data comprising content and other information ... to the virtual broadcast device in any order", "organizing the data on the virtual broadcast device into a particular order for the virtual broadcast according to a selected algorithm", "applying a ranking, by a user using the virtual broadcast device, to at least one of the songs in the virtual broadcast", and "adjusting, by the virtual broadcast device, the virtual broadcast in accordance with the user ranking".

Since the step of applying a ranking is performed on songs in the virtual broadcast, this step is performed after the songs are organized into a particular order for the virtual broadcast according to the algorithm. The step of adjusting is performed by the virtual broadcast device in response to the ranking.

The Examiner acknowledges that Abecassis, MusicMatch, Segal, and Tracton fail to disclose the steps of applying a ranking and adjusting the virtual broadcast, as expressly recited in independent claim 1. The Examiner refers to col. 7, lines 57-61 of Katz as disclosing this limitation.

However, this portion of Katz discloses only that "when a playlist tab 446 is selected, the user can create streaming multimedia playlists that include both CDDC audio tracks, digital audio files (wav, au, rp, midi, etc.), video CD tracks and digital video clips (avi, mpg, mov, etc.)." The creation of a playlist disclosed by Katz involves a user picking songs that the user wants in the playlist. There is no suggestion in Katz that the user selection of items for a playlist comprises applying a ranking. The only thing that can be considered a ranking in Katz is the order of the playlist. Even if the order of the playlist is considered the ranking, this type of ordering is only performed during the creation of the playlist. Katz fails to teach or suggest that the device adjusts the playlist in response to a ranking input by a user after the playlist has been generated. Accordingly, Katz fails to teach or suggest the steps of "applying a ranking, by a user using the virtual broadcast device, to at least one of the songs in the virtual broadcast", and "adjusting, by the virtual broadcast device, the virtual broadcast in accordance with the user ranking" after the songs are organized into a particular order for the virtual broadcast, as expressly recited in independent claim 1.

Furthermore, Katz indicates that the user selects the playlist. This means that the user selects the order in Katz. Since Katz discloses that the user selects the playlist, Katz fails to teach or suggest that the broadcast device adjusts the virtual broadcast in response to the ranking, as expressly recited in independent claim 1.

For all of the above reasons, it is respectfully submitted that independent claim 1 is allowable over Abecassis, MusicMatch, Segal, and Tracton in view of Katz.

Independent claims 14 and 69 include similar limitations to independent claim 1 and should be allowable for the same reasons as is independent claim 1.

Independent claims 20, 23, and 40 are all directed to a virtual television broadcast. Each of these claims recites that periodic updates are received and incorporated in the virtual

television broadcast. The Examiner states that col. 9, lines 51-62 of Logan discloses downloading additional news items and generating an updated broadcast with the new content. However this section of Logan merely states that a user can connect to the Internet and search for items of interest. This section of Logan further states that "when such programs are selected in the HTML session, the user's additional preferences and selections may be posted into the user data file 143 and the identification of the needed files may be passed to the client/player 103 for inclusion in the next download request". Each download request in Logan creates a new program sequence as shown in Fig. 2 of Logan and description beginning at col. 8, line 12. This does not teach or suggest that selected programs are used to update an existing virtual broadcast or program. Rather the section indicated by the Examiner merely states that a user may search for items of interest to be downloaded and save the item of interest in a data file 143 until a new programming sequence is generated. Accordingly, Logan fails to disclose the step of "generating an updated virtual television broadcast that includes the additional news story", as expressly recited in independent claims 20, 23, and 40. Therefore, it is respectfully submitted that independent claims 20, 23, and 40 are allowable over the prior art of record.

Dependent claims 2, 4-6, 11, 15-18, 22, 25, 41-68, and 70-78, each being dependent on one of independent claims 1, 14, 20, 23, 40, and 69 are allowable for the same reasons expressed above with respect to independent claims 1, 14, 20, 23, 40, and 69.

The application is now deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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